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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,652	06/19/2001	Brent D. Emerson	DSCK-1223-C1	3487

7590 06/13/2002

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EXAMINER

HUNTER, ALVIN A

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 06/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/884,652	Applicant(s) EMERSON ET AL. <i>ed</i>	
	Examiner Alvin A. Hunter	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the dimple with dual radii must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: In line 2, the second occurrence of "said core" should read --said cover--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 11, 16, 17 and 21-23 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 16 states that the second radius of the dimple is within the ranges of 0.9 to 1.3. Page 16, paragraph bridging pages 16 and 17, of the disclosure states that R2 (radius 2) is 0.1181" which may range from 0.9 to

Art Unit: 3711

1.3. How would one of ordinary skill make the invention if the second radius is of a value not within the ranges claimed by the applicant? Claims 17, 22, and 23 are also rejected as being dependent from a rejected claim. Furthermore, the applicant claims in claim 11 the dimples having dual radii and makes reference to a Figure 10 within the specification to show such (See Page 16, lines 20-22). No figures within the specification show the dual radii dimple. Also, within the Brief Description of the Drawings, no acknowledgement is made of a Figure 10 being one of the drawings showing the invention; therefore, claim 11, 16 and 17 are rejected.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-10, 12-15, 17-20, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cadorniga et al. (USPN 5415937) in view of Shaw (USPN 4877252) and OFFICIAL NOTICE.

Cadorniga et al. discloses a golf ball having a cover resulting in a golf ball having improved resilience and playability characteristics (See Abstract). The cover comprises a blend of a high modulus ionomer and a low modulus ionomer, in which the high modulus ionomer has a melt index of 0.5-5.0 g/10 min. and flexural modulus of 60000 to 120000 psi and the low modulus ionomer has a melt index of 0.5-10.0 g/10 min and a flexural modulus of 2000 to 8000 psi (See Abstract and Column 3, lines 28 through 65).

The high modulus ionomer has a hardness of 70 or greater and comprises 75-80% of an olefin, or ethylene, 20-25% of an alpha, beta ethylenically unsaturated carboxylic acid such as acrylic or methacrylic acid having 10-90% of the carboxylic acid groups neutralized with sodium, lithium, zinc or magnesium ions (See Column 3, lines 28 through 43). The low modulus ionomer has a hardness of 20 to 50 and comprises 67-70% of ethylene, 20-23% of n- or iso-butyl acrylate, and 10% of methacrylic acid where 10-90% of the acid groups are neutralized by sodium, zinc, or lithium ions (See Column 3, lines 56 through 65). The total cover composition comprises 80-50% of high modulus ionomer and 20-50% of low modulus ionomer (See Column 4, lines 12 through 26).

Cadorniga et al. does not disclose a golf ball having a dodecahedron dimple pattern on the surface of the golf ball. Shaw discloses a golf ball having a dodecahedron dimple pattern to enhance the flight performance of the golf ball (See Figures 1-4 and Column 1, lines 1 through 60). The invention of Shaw can be arranged so that the dimple pattern will influence the axis of spin (See Column 1, lines 55 through 60). OFFICIAL NOTICE is taken that the arrangement of dimples along the great circle influences the axis of spin and type of hitting the golf ball is suited for. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have any number of great circles on a golf ball, being free of dimples, dividing the pentagons within a dodecahedron pattern into triangles, as taught by the OFFICIAL NOTICE and Shaw, in order to optimize the flight performance of the golf ball by influencing the axis of spinning. Shaw also shows a pentagon comprising three rows of dimples when the pentagon is broken into triangles from its center (See Figures 3 and

Art Unit: 3711

4). The first dimple (B) sits on the center of the pentagon and, therefore, make up the first row, in which coincide. A second dimple (B) sits in the second row and coincides with both the second and third row. The third row comprises two inside dimples (A) and two outside dimples (A) in which also coincide with other third rows. The dimples are different sizes (See Column 2, lines 48 through 61). The configurations of Shaw are all aimed to enhance the flight performance of the golf ball and, therefore, would be obvious to arrange the dimples in any configuration. It would also appear that the number of dimples is merely a design choice due to the fact that the applicant does not state the reason as to why 360 dimples are critical to obtain the invention. It would appear that any number of dimples would be adequate for achieving the applicant's invention simply because the applicant does not state any disadvantages as to why one of ordinary skill in the art should not use 360 dimples. Furthermore, it would appear that the dimensions of the dimples is a design choice also due to the fact that no advantages or disadvantages as to why one of ordinary skill in the art should use only the dimension disclosed by the applicant; therefore, it would appear that any dimple dimension is suitable for obtaining the applicant's invention.

5. Claim 11 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 1-10, 12-15, 17-20 above in view of Cadorniga (USPN 5470076).

The prior art as applied to claims 1-10, 12-15, 17-20 above do not disclose a dimple having dual radii. Cadorniga discloses a golf ball having a plurality of dimples to improve range and accuracy of a golf ball in which the dimples comprise of a minor

Art Unit: 3711

dimple within a major dimple (See Summary of the Invention). It is clearly shown within Figure 2, that the dimple has two radii; therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a dimple with dual radii, as taught by Cadorniga, in order to improve the range and accuracy of the golf ball.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1-11, 15, 18, 19, 20 and 24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 09/884612. Although the conflicting claims are not identical, they are not patentably distinct from each other because Application No. 09/884612 claims the same subject matter except having a second polymer having a melt index of 10 to 65 and a first polymer having a melt index of 0.5 to 1.0. It would appear that the polymers may be combined in any fashion; therefore, distinguishing which polymer is first and second is not critical. It would have been obvious to one

having ordinary skill in the art at the time the invention was made to have a first polymer and second polymer of any melting index in order to adequately combine the polymers to create a cover with optimum durability.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A. Hunter whose telephone number is 703-306-5693. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:00PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell, can be reached on (703) 308-2126. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
Steven Wong  
Primary Examiner